

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

J. EDUARDO GUZMAN, M.D.

**Physician's and Surgeon's
Certificate No. A38124**

Respondent

Case No. 800-2016-027559

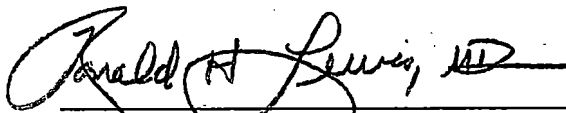
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 17, 2019.

IT IS SO ORDERED: April 17, 2019.

MEDICAL BOARD OF CALIFORNIA



**Ronald Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KEITH C. SHAW
Deputy Attorney General
4 State Bar No. 227029
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9515
7 Facsimile: (619) 645-2012

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **J. EDUARDO GUZMAN, M.D.**

16 **420 N Montebello BL #204**
17 **Montebello, CA 90640**

18 **Physician's and Surgeon's Certificate No.**
19 **A 38124**

20 Respondent.

Case No. 800-2016-027559

OAH No. 2018100603

21 **STIPULATED SETTLEMENT AND**
22 **DISCIPLINARY ORDER**

23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 PARTIES

26 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
27 of California (Board). She brought this action solely in her official capacity and is represented in
28 this matter by Xavier Becerra, Attorney General of the State of California, by Keith C. Shaw,
Deputy Attorney General.

2. Respondent J. Eduardo Guzman, M.D., is represented in this proceeding by attorney Mark B. Connely, Esq., whose address is: 1319 Marsh Street, Second Floor, San Luis Obispo, CA 93401.

3. On or about March 8, 1982, the Board issued Physician's and Surgeon's Certificate No. A 38124 to J. Eduardo Guzman, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-027559, and will expire on June 30, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-027559 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 21, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-027559 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-027559. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2016-027559, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2016-027559 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 38124 issued to Respondent J. Eduardo Guzman, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years from the effective date of the Decision and Order on the following terms and conditions.

1. **CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES.** Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge, including prescribing of controlled

substances, and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

3. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course

not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

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Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

6. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

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1 If Respondent fails to enroll, participate in, or successfully complete the clinical
2 competence assessment program within the designated time period, Respondent shall receive a
3 notification from the Board or its designee to cease the practice of medicine within three (3)
4 calendar days after being so notified. The Respondent shall not resume the practice of medicine
5 until enrollment or participation in the outstanding portions of the clinical competence assessment
6 program have been completed. If the Respondent did not successfully complete the clinical
7 competence assessment program, the Respondent shall not resume the practice of medicine until a
8 final decision has been rendered on the accusation and/or a petition to revoke probation. The
9 cessation of practice shall not apply to the reduction of the probationary time period.]

10 Within 60 days after Respondent has successfully completed the clinical competence
11 assessment program, Respondent shall participate in a professional enhancement program
12 approved in advance by the Board or its designee, which shall include quarterly chart review,
13 semi-annual practice assessment, and semi-annual review of professional growth and education.
14 Respondent shall participate in the professional enhancement program at Respondent's expense
15 during the term of probation, or until the Board or its designee determines that further
16 participation is no longer necessary.

17 7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
18 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
19 Chief Executive Officer at every hospital where privileges or membership are extended to
20 Respondent, at any other facility where Respondent engages in the practice of medicine,
21 including all physician and locum tenens registries or other similar agencies, and to the Chief
22 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
23 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
24 calendar days.

25 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

26 8. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
27 prohibited from supervising physician assistants.

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1 9. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
2 governing the practice of medicine in California and remain in full compliance with any court
3 ordered criminal probation, payments, and other orders.

4 10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
5 under penalty of perjury on forms provided by the Board, stating whether there has been
6 compliance with all the conditions of probation.

7 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
8 of the preceding quarter.

9 11. GENERAL PROBATION REQUIREMENTS.

10 Compliance with Probation Unit

11 Respondent shall comply with the Board's probation unit.

12 Address Changes

13 Respondent shall, at all times, keep the Board informed of Respondent's business and
14 residence addresses, email address (if available), and telephone number. Changes of such
15 addresses shall be immediately communicated in writing to the Board or its designee. Under no
16 circumstances shall a post office box serve as an address of record, except as allowed by Business
17 and Professions Code section 2021(b).

18 Place of Practice

19 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
20 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
21 facility.

22 License Renewal

23 Respondent shall maintain a current and renewed California physician's and surgeon's
24 license.

25 Travel or Residence Outside California

26 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
27 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
28 (30) calendar days.

1 In the event Respondent should leave the State of California to reside or to practice,
2 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
3 departure and return.

4 12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
5 available in person upon request for interviews either at Respondent's place of business or at the
6 probation unit office, with or without prior notice throughout the term of probation.

7 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
8 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
9 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
10 defined as any period of time Respondent is not practicing medicine as defined in Business and
11 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
12 patient care, clinical activity or teaching, or other activity as approved by the Board. If
13 Respondent resides in California and is considered to be in non-practice, Respondent shall
14 comply with all terms and conditions of probation. All time spent in an intensive training
15 program which has been approved by the Board or its designee shall not be considered non-
16 practice and does not relieve Respondent from complying with all the terms and conditions of
17 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
18 on probation with the medical licensing authority of that state or jurisdiction shall not be
19 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
20 period of non-practice.

21 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
22 months, Respondent shall successfully complete the Federation of State Medical Board's Special
23 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
24 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
25 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

26 Respondent's period of non-practice while on probation shall not exceed two (2) years.

27 Periods of non-practice will not apply to the reduction of the probationary term.

28 Periods of non-practice for a Respondent residing outside of California will relieve

Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

14. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

16. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

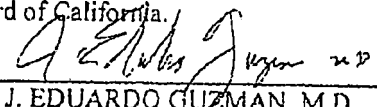
17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of

California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Mark B. Connely, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 2/26/2019


J. EDUARDO GUZMAN, M.D.
Respondent

I have read and fully discussed with Respondent J. Eduardo Guzman, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2/26/19


MARK B. CONNELLY, ESQ.
Attorney for Respondent

Catherine Hall
for

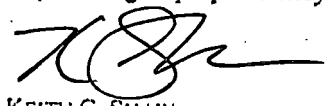
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 2/26/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General


KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-027559

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KEITH C. SHAW
Deputy Attorney General
4 State Bar No. 227029
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9515
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *August 21 2018*
BY: *[Signature]* ANALYST

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2016-027559

14 **J. Eduardo Guzman, M.D.**
15 **420 N Montebello Blvd. #204**
Montebello, Ca 90640

ACCUSATION

16 Physician's and Surgeon's Certificate
17 No. A 38124,

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California (Board).

24 2. On or about March 8, 1982, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 38124 to J. Eduardo Guzman, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on June 30, 2019, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2229 of the Code states that the protection of the public shall be the highest priority for the Board in exercising their disciplinary authority. While attempts to rehabilitate a licensee should be made when possible, Section 2229(c) states that when rehabilitation and protection are inconsistent, protection shall be paramount.

C. Section 2234 of the Code, states in part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

“(d) Incompetence.”

D. Section 725 of the Code states in part:

“(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon...”

E. Section 11165.1 of the California Health and Safety Code states in part:

“(a)(1)(A)(i) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 shall, before July 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that practitioner the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).”

PERTINENT DRUGS

4. **Adderall**, a trade name for mixed salts of a single-entity amphetamine product (dextroamphetamine sulphate, dextroamphetamine saccharate, amphetamine sulfate, amphetamine aspartate), is a dangerous drug as defined in Business and Professions Code section 4022 and a schedule II controlled substance as defined by section 11055 of the Health and Safety Code. Adderall is indicated for Attention Deficit Disorder with Hyperactivity and Narcolepsy for Deficit Disorder with Hyperactivity, only in rare cases will it be necessary to exceed a total of 40 mg per day. For Narcolepsy, the usual dose is 5 mg to 60 mg per day in divided doses depending on individual patient response.

5. **Ambien**, a Schedule IV controlled substance, is a sedative primarily used to treat insomnia. It is an addictive substance and users should avoid alcohol as serious interactions may occur.

1 6. **Ativan**, the trade name for lorazepam, is used for anxiety and sedation in the
2 management of anxiety disorder for short-term relief from the symptoms of anxiety or anxiety
3 associated with depressive symptoms. It is a dangerous drug as defined in section 4022 and a
4 Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code.
5 Lorazepam is not recommended for use in patients with primary depressive disorders. Sudden
6 withdrawal from lorazepam can produce withdrawal symptoms including seizures.

7 7. **Clonazepam**, known by the trade name Klonopin, is an anticonvulsant of the
8 benzodiazepine class of drugs. It is a dangerous drug as defined by section 4022 and a schedule
9 IV controlled substance as defined by section 11057 of the Health and Safety Code. It produces
10 central nervous system depression and should be used with caution with other central nervous
11 system depressant drugs. Like other benzodiazepines, it can produce psychological and physical
12 dependence. Withdrawal symptoms similar to those noted with barbiturates and alcohol have
13 been noted upon abrupt discontinuance of clonazepam. The initial dosage for adults should not
14 exceed 1.5 mg. per day divided in three doses.

15 8. **Phentermine** is a Schedule IV controlled substance as designated by Health and
16 Safety Code section 11057 and a dangerous drug as designated by section 4022. It is a stimulant
17 and used to promote weight loss when used for a short period of time.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct: Gross Negligence and/or Repeated Negligent Acts and/or**
20 **Incompetence and/or Excessive Prescribing in the care provided to Patient A)¹**

21 9. Respondent is subject to disciplinary action under sections 2234, and/or 2234(a),
22 2234(b) and/or 2234(c), and/or 2234(d) and/or 725 of the Code, in that Respondent committed
23 unprofessional conduct amounting to gross negligence and/or repeated negligent acts and/or
24 incompetence in the care and treatment of Patient A. Respondent is also subject to disciplinary
25 action under section 725 of the Code in that he committed repeated acts of clearly excessive
26 prescribing of drugs to Patient A. The circumstances are as follows:

27 _____
28 ¹ Letters are used to protect their privacy. Respondent may learn the names of the patients
through the discovery process.

1 10. On or about August 19, 2014, Patient A, a then 35-year old female, was first seen by
2 Respondent after being referred by her primary care physician for medication management. She
3 presented to Respondent with Adderall 90 mg/day.

4 11. Respondent renewed the Adderall prescription monthly until on or about December 2,
5 2014, at which time Patient A reported that she was having difficulty with her school work and
6 also voiced concern about being overweight. During this visit, Respondent added Phentermine 30
7 mg/day, which was subsequently increased to 45 mg/day on or about December 23, 2014, then
8 lowered back to 30 mg/day on or about April 28, 2015.

9 12. On or about March 17, 2015, Patient A requested an early refill for Adderall,
10 claiming the medication had been lost. Respondent wrote the prescription. On or about June 9,
11 2015, Respondent discontinued Phentermine as it had been ineffective.

12 13. On or about March 8, 2016, Patient A again reported losing her prescription of
13 Adderall. Respondent wrote an early refill of Adderall just two weeks after the previous
14 prescription. On or about March 18, 2016, Respondent wrote another prescription for Adderall,
15 and restarted Phentermine at 150 mg/day for weight loss. It appears yet another prescription for
16 Adderall was written just several days later on or about March 22, 2016.

17 14. On or about September 22, 2016, Patient A reported to Respondent that her
18 prescriptions had possibly been stolen while she was moving to Santa Barbara. Respondent wrote
19 an early refill for Adderall and Patient A indicated she would provide him with the police report
20 from the incident.

21 15. On or about May 25, 2017, Patient A reported another lost prescription for Adderall,
22 indicating it was destroyed by her pet bird. Respondent wrote another early refill prescription for
23 Adderall.

24 16. CURES reports for Patient A indicate that she was taking on average 138 mg/day of
25 Adderall and 68 mg/day of Phentermine between August 2017 and January 2018. In 2016,
26 Patient A averaged taking 160 mg/day of Adderall, followed by an average of 116 mg/day of
27 Adderall in 2017. The reports indicate Patient A was filling prescriptions only written by
28 Respondent, and that she filled prescriptions at two (2) different pharmacies.

17. At no time did Respondent request prior medical records for Patient A despite admitting that he knew she came to his practice on high doses of Adderall. Respondent further acknowledged that he never requested CURES reports for his patients, including Patient A, because he did not know what a CURES report was or how to obtain one. Had Respondent obtained a CURES report, he would have seen that Patient A likely filled every prescription, even the ones she reported lost or stolen.

18. Respondent committed gross negligence and/or repeated acts of negligence and/or incompetence and/or repeated acts of clearly excessive prescribing drugs in his care and treatment of Patient A which included, but was not limited to, the following:

- (a) Failing to obtain prior medical records or CURES reports for Patient A to verify her presentation of 90 mg/day Adderall;
- (b) Failing to document any concerns about the high dosage of Adderall, or a treatment plan on decreasing this dosage over time;
- (c) Adding a stimulant, Phentermine, to another stimulant, Adderall;
- (d) Continuously providing early refill prescriptions to Patient A for Adderall, despite alerts that she was consuming more than her prescribed amount of 90 mg/day, including multiple reports by Patient A of lost or stolen prescriptions; and
- (e) Failing to follow-up on alerts that Patient A may have been fabricating her reporting of lost or stolen prescriptions, including reviewing CURES reports which would have revealed that Patient A was in fact filling the prescriptions that she claimed were lost or stolen.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligent Acts and/or Excessive Prescribing in the care provided to Patient B)

19. Respondent is subject to disciplinary action under sections 2234, and/or 2234(a), and/or 2234(c) and/or 725 of the Code, in that Respondent committed unprofessional conduct amounting to repeated negligent acts and/or repeated acts of clearly excessive prescribing of drugs in the care and treatment of Patient B. The circumstances are as follows:

1 20. On or about April 30, 2015, Patient B, a then 53-year old male, was first evaluated by
2 Respondent and presented with symptoms of depression and taking Ativan 0.5 mg/day.
3 Respondent noted nine (9) alcoholic beverages weekly. Patient B was diagnosed with Major
4 Depressive Disorder, Severe, and Generalized Anxiety Disorder. Respondent increased Ativan to
5 1 mg/day.

6 21. On or about September 1, 2015, Respondent was prescribing Ativan 1.5 mg/day,
7 Ambien 10 mg before bedtime, as well as several other medications to Patient B.

8 22. On or about February 23, 2016, Respondent added Klonopin 1.5 mg/day to Patient
9 B's medication schedule in response to an indication of increasing depression and anxiety.

10 23. Patient B relocated to Maine in July 2016, however, Respondent continued to provide
11 prescriptions through November 2016.

12 24. Respondent committed repeated acts of negligence and/or clearly excessive
13 prescribing in his care and treatment of Patient B which included, but was not limited to,
14 prescribing multiple benzodiazepines to a patient with documented alcohol abuse.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Repeated Negligent Acts and/or Incompetence)**

17 25. Respondent is subject to disciplinary action under sections 2234, and/or 2234(a),
18 and/or 2234(c) and/or 2234(d) of the Code, and California Health and Safety Code section
19 11165.1(a), in that Respondent committed unprofessional conduct amounting to repeated
20 negligent acts and/or incompetence in the care and treatment of his patients. The circumstances
21 are as follows:

22 26. Respondent failed to monitor CURES reports for all his patients, and admitted that he
23 did not know what a CURES report was or how to obtain one.

24 27. Respondent failed to generally request prior medical records for his new patients,
25 which contain critical sources of information that guides ongoing treatment, especially in cases
26 where controlled substances are being prescribed.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board issue a decision: .

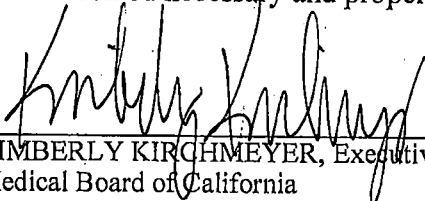
4 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 38124, issued
5 to J. Eduardo Guzman, M.D.;

6 2. Revoking, suspending or denying approval of J. Eduardo Guzman, M.D.'s authority
7 to supervise physician assistants and advanced practice nurses;

8 3. Ordering J. Eduardo Guzman, M.D., if placed on probation, to pay the Board the
9 costs of probation monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.

11
12 DATED: August 21, 2018


13 KIMBERLY KIRCHMEYER, Executive Director
14 Medical Board of California
15 State of California
16 Complainant

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